

1 from September of 2003 until you were sentenced in May of
2 2004?

3 A. Yes, ma'am.

4 Q. And while in the Boone County Jail, did you have any
5 contact with a Charles or Chuck Erickson?

6 A. Yes, ma'am.

7 Q. And how did that come about? How did you have contact
8 with him?

9 A. I was already in the pod when he came.

10 Q. You ended up in the same pod?

11 A. Yes.

12 Q. And if you were in the same pod, then you'd have contact
13 with the other individuals in that pod? Would that be accurate
14 to say?

15 A. Yes, ma'am.

16 Q. Now, did Chuck Erickson talk to you about whether or not
17 he committed the murder of Kent Heitholt?

18 A. Yes, ma'am.

19 Q. And what did he tell you?

20 A. Actually he said that he just had a dream that him and
21 Ryan did it.

22 Q. Okay. And did he tell you whether or not he actually
23 did it or he just said it was all a dream?

24 A. He said he just thought he had a dream.

25 Q. Did he indicate to you whether he knew if he actually

1 committed that murder or not?

2 A. No.

3 Q. Now, prior to Ryan's trial in October of 2005, were you
4 ever contacted by any of Ryan Ferguson's attorneys back then in
5 regard to testifying in his case?

6 A. No, ma'am.

7 Q. And if you would have been contacted back then, would
8 you have given them the same information that you testified to
9 here today in regard to Chuck Erickson?

10 A. Yes, ma'am.

11 Q. And if you would have been subpoenaed to testify, would
12 you have testified the same way?

13 A. Yes, ma'am.

14 MS. LEFTWICH: I have nothing further, Your Honor.

15 THE COURT: Cross-examination.

16 MS. MORRELL: Yes, Your Honor.

17 CROSS-EXAMINATION BY MS. MORRELL

18 Q. So at the time that Mr. Erickson arrived at the Boone
19 County Jail, he was assigned to the same pod as you; is that
20 right?

21 A. Same pod?

22 Q. Um-hum.

23 A. Yes, ma'am.

24 Q. And you had already been there for some time; is that
25 right?

1 A. Yes, ma'am.

2 Q. And again, what was the charge that was pending at the
3 time?

4 A. For me?

5 Q. Yes.

6 A. Second-degree assault.

7 Q. Second-degree assault. And you received a five-year
8 sentence for that; is that right?

9 A. Yes, ma'am.

10 Q. And you also have a prior for tampering from 2004; is
11 that right?

12 A. Yes, ma'am.

13 Q. And you received three years for that?

14 A. Yes, ma'am.

15 Q. And also a misdemeanor domestic assault that same year?

16 A. Yes, ma'am.

17 Q. Okay. And so do you recall how long you and
18 Mr. Erickson were in the same pod? Would you agree it was less
19 than a month?

20 A. Less than a month? I don't know.

21 Q. Okay. And you were then moved out of that pod; is that
22 right?

23 A. Right.

24 Q. And in fact, you actually moved to a few different pods
25 while you were at the Boone County Jail? You moved a few times?

1 A. I left the pod with Charles and went to a pod with Ryan.

2 Q. All right. So in fact, you were housed with Ryan
3 Ferguson after you were housed with Mr. Erickson; is that right?

4 A. Right.

5 Q. And in fact, you were housed with Mr. Ferguson for
6 approximately two months on different occasions?

7 A. Correct.

8 Q. For a total of about two months; is that right?

9 A. Yeah.

10 Q. Okay. Now, you stated that he had told you that he had
11 had a dream; is that right?

12 A. Um-hum.

13 Q. Okay. Now, were you aware when this trial was
14 occurring; the case of *State versus Ryan Ferguson*?

15 A. Was I aware?

16 Q. Uh-huh. Were you aware when the trial was occurring in
17 2005?

18 A. Yes, ma'am.

19 Q. Okay. Were you in the Department of Corrections at that
20 time, or were you still at the Boone County Jail?

21 A. Department of Corrections.

22 Q. Okay. Now, did you ever attempt to contact
23 Mr. Ferguson's attorneys?

24 A. No.

25 Q. Okay. Did you ever attempt to contact the prosecutor's

1 office?

2 A. No.

3 Q. And just out of curiosity, who was the first person you
4 spoke to in regards to this information that you testified to
5 today?

6 A. Mr. Johnson.

7 Q. Mr. Johnson from the public defender's office?

8 A. Correct.

9 Q. Okay. Now, Mr. Erickson stated that he had had a dream
10 about the murder?

11 A. Right.

12 MS. MORRELL: No further questions.

13 THE COURT: Redirect.

14 REDIRECT EXAMINATION BY MS. LEFTWICH

15 Q. You did indicate Mr. Erickson stated he had a dream
16 about the murder. But did he ever tell you that he committed the
17 murder?

18 A. No.

19 MS. LEFTWICH: I have nothing further, Judge.

20 THE COURT: Any further?

21 MS. MORRELL: No further questions.

22 THE COURT: You may step down.

23 May this witness be finally excused?

24 MS. LEFTWICH: Yes.

25 MS. MORRELL: Yes.

1 THE COURT: Thank you.

2 Call your next witness.

3 MS. LEFTWICH: Call Keith Fletcher.

4 THE COURT: If you would come forward, please, and raise
5 your right hand to be sworn.

6 KEITH FLETCHER

7 (having been first duly sworn by the Court, testified as
8 follows:)

9 THE COURT: You may be seated right there, please.

10 MS. LEFTWICH: And again, Your Honor, I renew my
11 objection to the video cameras and still photography in regard to
12 this witness.

13 THE COURT: All right. So this witness is not to be
14 videotaped or any still photography taken.

15 You may proceed.

16 DIRECT EXAMINATION BY MS. LEFTWICH

17 Q. Can you state your full name for the Court, please.

18 A. Keith Fletcher.

19 Q. And Mr. Fletcher, are you currently in the Department of
20 Corrections?

21 A. Yes, ma'am.

22 Q. And where are you housed right now?

23 A. In Algoa Correctional Center.

24 Q. And you were convicted of felonious restraint and
25 endangering the welfare of a child out of Boone County; is that

1 correct?

2 A. Yes.

3 Q. And you were arrested in December of 2003 on that
4 offense?

5 A. Yes, ma'am.

6 Q. And did you then stay in the Boone County Jail until
7 your sentencing date of July 7th of 2004?

8 A. Yes, ma'am.

9 Q. So you were in the Boone County Jail between
10 December 2003 and July of 2004?

11 A. Yes, ma'am.

12 Q. And when you first got convicted, did you go to Fulton
13 Reception and Diagnostic Center first?

14 A. Yes, ma'am.

15 Q. And then did you go to Bowling Green?

16 A. Yes, ma'am.

17 Q. Which is Northeast Correctional Center; correct?

18 A. Yes.

19 Q. And now you're presently at Algoa?

20 A. Yes, ma'am.

21 Q. All right. Now, while in the Boone County Jail, did you
22 have contact with Chuck Erickson?

23 A. Yes. I stayed in the next cell over from him.

24 Q. So that would be in the same pod and the next cell right
25 next to him?

1 A. Yes, ma'am.

2 Q. And when you were in the pod with Chuck Erickson, did he
3 talk with you about whether or not he committed the murder of
4 Kent Heitholt, the sportswriter at the *Tribune*?

5 A. Yes. We became pretty close as far as being, like, cell
6 partners or something. So I guess you could say yes.

7 Q. So you talked with him often?

8 A. Yes, every day.

9 Q. Now, what did he tell you in regard to whether or not he
10 and Ryan killed the *Tribune* reporter?

11 A. He said that he did not believe that he did it.

12 Q. And did he tell you that more than once?

13 A. Yes. This was an every day thing.

14 Q. Talking about the case was an every day thing?

15 A. Yeah.

16 Q. In fact, did he at some point show you all of his police
17 reports; his discovery in the case?

18 A. A whole lot of it, yes. I was in the cell with him, and
19 I seen when they brought the discovery in. And he just looked at
20 everything. And I said, "Well, let's see what's going on here."
21 So I was the one that was reading his discovery for him.

22 Q. And you discussed it with him?

23 A. Yes.

24 Q. And did he indicate to you why he told detectives that
25 he killed the sportswriter?

1 A. Because he was tired of sitting at the police station
2 and he wanted to go home.

3 Q. That's what he told you?

4 A. Yes. They had promised him that after he gave a
5 statement that he could go home.

6 Q. That's what he told you that they told him?

7 A. Yes, ma'am.

8 Q. And did he indicate to you anything about taking a plea?

9 A. Yes, he did.

10 Q. And what did he tell you about that?

11 A. That he was going to take -- that he was thinking about
12 taking a plea, but he would have to testify against Mr. Ferguson.

13 Q. And so he was thinking about it?

14 A. Yes, ma'am.

15 Q. Now, in July of 2004, you were sentenced, and you went
16 to Fulton Reception and Diagnostic Center; is that right?

17 A. Yes, ma'am.

18 Q. And while you were there, did you find out that
19 Mr. Erickson had pled guilty?

20 A. Yes.

21 Q. How did you find that out?

22 A. I seen it in the newspaper.

23 Q. And what was your reaction to that?

24 A. I was shocked.

25 Q. And why was that?

1 A. Because of all the things that we discussed. And he
2 was, like, I'm not sure. I didn't do this. And it just shocked
3 me. Because at first he was saying, "Well, I just want to take
4 the plea to get this all over with." And then he said that, "I
5 don't know, but I'm just tired of all this"; or "I want to get it
6 over with."

7 Q. So you discussed all that with him when you were in the
8 pod with him; is that correct?

9 A. Yes.

10 Q. And even after you went to prison and were at Fulton,
11 did you correspond with Chuck Erickson?

12 A. Yes. I think I wrote him, like, two or three letters.

13 Q. Was that all from Fulton or some other prison?

14 A. Just at Fulton; when I was in Fulton.

15 Q. And why did you write him the first letter?

16 A. I told you we were close and we were friends. And I was
17 just shocked.

18 Q. You mean when you heard that he pled?

19 A. Yes.

20 Q. So the first letter came after that?

21 A. Yes.

22 Q. And did he write you back some letters as well?

23 A. Yes, ma'am.

24 Q. Now, prior to Ryan's trial in October of 2005, were you
25 ever contacted by any of Ryan's attorneys?

1 A. No.

2 Q. Were you ever contacted by any of Ryan's investigators?

3 A. No, ma'am.

4 Q. If you would have been contacted by them prior to trial,
5 would you have said the same things?

6 A. Yes, I would.

7 Q. That you've testified to here today?

8 A. Yes.

9 Q. And if you were subpoenaed, would you have come and
10 testified as well?

11 A. Yes, ma'am.

12 MS. LEFTWICH: I have nothing further. Thank you.

13 THE COURT: Cross-examination.

14 MS. MORRELL: Yes, Your Honor.

15 CROSS-EXAMINATION BY MS. MORRELL

16 Q. Mr. Fletcher, you're currently serving a four-year
17 sentence for endangering the welfare of a child; is that right?

18 A. Yes.

19 Q. And for felonious restraint?

20 A. Yes, ma'am.

21 Q. And those are the charges you were being held for when
22 you were housed with Mr. Erickson; is that right?

23 A. Yes, consecutive charges.

24 Q. I'm sorry?

25 A. Consecutive charges.

1 Q. Consecutive?

2 A. Yes.

3 Q. And you also have a prior conviction from 2003 for
4 failure to register as a sex offender?

5 A. Yes.

6 Q. And you have a prior from 2003 for stealing; misdemeanor
7 stealing?

8 A. Not that I recall.

9 Q. Okay. You didn't receive a four-month sentence for
10 misdemeanor stealing in 2003?

11 A. I'm not sure if I did or not, ma'am.

12 Q. Okay. And you have another prior from 2001 for
13 misdemeanor stealing where you received a four-month sentence?

14 A. Yes, ma'am.

15 Q. And you have a prior from 2001 for passing a bad check,
16 which you received a six-month sentence?

17 A. Yes.

18 Q. And you have a prior from 1997 for felony forgery --

19 A. Yes.

20 Q. -- out of St. Louis County, which you received a
21 five-year sentence?

22 A. Yes, ma'am.

23 Q. And you have a prior from 1996 for sexual assault out of
24 St. Louis?

25 A. Yes, ma'am.

1 Q. And you received a five-year sentence for that?

2 A. Yes, ma'am.

3 Q. And you have another prior from 1996 for felony
4 tampering?

5 A. Yes.

6 Q. And you received a three-year sentence for that?

7 A. Yes, ma'am.

8 Q. And you have another prior from 1991 out of Johnson
9 County for tampering?

10 A. Yes, ma'am.

11 Q. Which you received a three-year sentence for that?

12 A. Yes.

13 Q. And you have another prior from 1991 for sexual abuse,
14 which you received a six-month sentence; is that right?

15 A. Yes. All those charges was at one time.

16 Q. Okay. Now, you stated that you read Mr. Erickson's
17 discovery; is that right?

18 A. Yes, ma'am.

19 Q. And you read all the police reports?

20 A. Yes, ma'am.

21 Q. Okay. And you stated on direct examination that
22 Mr. Erickson told you that he was not sure; is that right?

23 A. Yes, ma'am.

24 Q. And you are aware that he did plead guilty; is that
25 right? You stated that on direct; that you were aware that he

1 pled guilty?

2 A. When I was in Fulton, yes.

3 Q. And were you aware that he received a 25-year sentence?

4 A. Yes.

5 Q. Okay. For admitting his guilt in the murder?

6 A. Yes.

7 Q. Okay. And you stated on direct examination that he told
8 you that he was tired of sitting at the police station is why he
9 made the statement?

10 A. Yes.

11 Q. Okay. And so you were aware that he had made statements
12 to the police? He had told you that?

13 A. No. I heard it on TV.

14 Q. Okay. Didn't you state that you had read the police
15 reports as well, though?

16 A. Yes.

17 Q. And that would include the statements that he made to
18 the police?

19 A. No, I didn't read that part in the discovery.

20 Q. Okay. So you didn't read the report about his
21 statements --

22 A. No, I didn't.

23 Q. -- that he made?

24 And did you read the reports stating that he had told
25 his friends before he had ever met with the police that he had

1 committed the murder with Mr. Ferguson?

2 A. I read the part that a female said she overheard him
3 bragging about.

4 Q. Bragging about the murder?

5 A. Yes.

6 Q. And you say "he," you mean Mr. Erickson or Mr. Ferguson?

7 A. Mr. Erickson.

8 Q. Mr. Erickson. Okay. So you did not read the police
9 reports where before he ever met with the police he admitted to
10 killing Mr. Heitholt with Mr. Ferguson to his friends?

11 A. No, ma'am.

12 Q. Okay. Now, you stated that you were not contacted
13 before Mr. Ferguson's trial by anyone who represented
14 Mr. Ferguson; is that right?

15 A. Before his trial? No, I wasn't.

16 Q. Just out of curiosity, who was the first person to
17 contact you about this case?

18 A. The investigator.

19 Q. Mr. Johnson?

20 A. Yes.

21 Q. Okay.

22 MS. MORRELL: I have no further questions.

23 MS. LEFTWICH: I have nothing further, Your Honor.

24 THE COURT: May this witness be finally excused?

25 MS. MORRELL: Yes.

1 MS. LEFTWICH: Yes.

2 THE COURT: All right. You're free to go. Thank you.
3 Call your next witness.

4 MS. LEFTWICH: Call John James, Your Honor.

5 THE COURT: All right.

6 (Ryan Ferguson entered the courtroom. It shall be
7 presumed, unless otherwise noted, that he remained present
8 throughout the proceedings.)

9 THE COURT: I'll note for the record that Mr. Ferguson
10 is now present. And you can have a seat at the counsel table.

11 If you would come forward, please, and raise your right
12 hand to be sworn.

13 JOHNATHON JAMES

14 (having been first duly sworn by the Court, testified as
15 follows:)

16 THE COURT: You may be seated right there, please.

17 MS. LEFTWICH: Since Mr. Ferguson just got here, I would
18 request that his right hand be at least unlocked so he can take
19 notes during the hearing.

20 THE COURT: She's requesting that his right hand be
21 unshackled so he can take notes during the trial.

22 (Corrections officer complies.)

23 THE COURT: You may proceed.

24 DIRECT EXAMINATION BY MS. LEFTWICH

25 Q. Please state your full name for the record, please.

1 A. Johnathon Craig James.

2 Q. Are you currently living in Columbia?

3 A. Yes.

4 THE COURT: Let me note again that this witness was not
5 to be videotaped or have any still photography taken as well.

6 MS. LEFTWICH: Yes.

7 THE COURT: All right. Proceed.

8 Q. (By Ms. Leftwich) And are you employed?

9 A. Yes.

10 Q. And how are you employed?

11 A. I'm a foreman for Daugherty Construction.

12 Q. You have your shirt on?

13 A. Yeah.

14 Q. Now, in November of 2003, were you arrested and placed
15 in the Boone County Jail?

16 A. Yes.

17 Q. Did you bond out in April; April 12th of 2004? Does
18 that sound right?

19 A. Yes.

20 Q. And you were convicted of unlawful use of a weapon and
21 hindering prosecution; is that right?

22 A. Yes.

23 Q. And you were placed on supervised probation for five
24 years?

25 A. Yes.

1 Q. And you're still currently on probation; is that right?

2 A. Yes.

3 Q. And during the time you were in the Boone County Jail
4 before you bonded out, did you have contact with Chuck Erickson?

5 A. Yes.

6 Q. And how did that come about?

7 A. He came into the pod that I was in.

8 Q. So you were already there prior to him?

9 A. Yeah.

10 Q. And did you discuss his arrest or his case with him at
11 all?

12 A. He had made several statements to us while there.

13 Q. And what statements did he make?

14 A. Basically, you know, sum everything up, he didn't know
15 if he had done it. It was all a dream. He kept having dreams
16 about if he did it. He wasn't sure if him and Ryan did it; he
17 didn't know. And it may have been him and one other person. He
18 was unaware of, you know, what he did. He had no idea.

19 Q. And he made those statements during the course of --

20 A. The whole time.

21 Q. -- the time that you were in the pod with him?

22 A. He kept saying that he dreamed it.

23 Q. And did he tell you about why he went along with the
24 police?

25 A. Well, the only thing that he told me that he was high

1 when he gave the statement to the police. And I was aware you
2 weren't allowed to take a statement if you were under the
3 influence of anything. And he said -- that's really all he said
4 was, you know, he was talking to the police, he was high, and
5 kept saying he didn't know if he did it. He dreamed it. He
6 wasn't sure. He thinks he did it, but he didn't know.

7 Q. And did he indicate to you that he had smoked marijuana
8 prior to his arrest? Is that what he referred to?

9 A. Yeah. He was high. He was saying he was high and
10 nervous. He was high in the police room, and he was nervous
11 about being in the police room because he was high and being
12 parancid.

13 Q. Now, were there some occasions in the pod where
14 something would happen that wasn't supposed to happen and Chuck
15 would take the fall for it?

16 A. I can remember one time we were all horseplaying and all
17 going to get in trouble. And he decided to take the fall and
18 take 24 hours in his room.

19 Q. For everybody?

20 A. For everybody, yeah, even though he didn't do anything.

21 Q. Now, prior to Ryan Ferguson's trial in October of 2005,
22 were you ever contacted by any of Ryan's attorneys about
23 testifying at the trial?

24 A. At this one right here?

25 Q. No, the one in October of 2005.

1 A. I never heard anything I don't believe.

2 Q. If you had been contacted, would you have told them the
3 same information that you testified to here today?

4 A. Yeah, I would have said the same thing.

5 Q. If you had been subpoenaed to testify, would you have
6 come and testified at his trial?

7 A. Yeah.

8 MS. LEFTWICH: I have nothing further, Your Honor.

9 THE COURT: Cross-examination.

10 MS. MORRELL: Yes, Your Honor.

11 CROSS-EXAMINATION BY MS. MORRELL

12 Q. You were asked on direct examination about the
13 horseplaying where Mr. Erickson agreed to take the fall. Do you
14 recall that --

15 A. Yeah.

16 Q. -- discussing that with Ms. Leftwich? And you stated
17 that occurred one time where --

18 A. I can remember --

19 Q. One time?

20 A. But I'm sure there was more times, you know. It was
21 five years ago.

22 Q. Sorry?

23 A. It was five years ago. It's hard to remember.

24 Q. Your recollection is the one time?

25 A. Yeah, I do remember that, because it was, like, his

1 first week in there. You know, you don't have to do this. You
2 know, it's your first week here. So -- and he went ahead and
3 said he would do it.

4 Q. And you stated that was his first week there, and this
5 is after he had been arrested?

6 A. Yeah.

7 Q. He's awaiting his charges on the murder; is that right?

8 A. Yeah, he was -- yeah.

9 Q. And you were in with Mr. Erickson, would you agree with
10 me, for about three weeks; is that right?

11 A. Around that time.

12 Q. And you were actually in the Boone County Jail before
13 Mr. Erickson arrived?

14 A. Yeah.

15 Q. And after that were you moved to another pod?

16 A. He came in there, and we had switched sides. I went
17 over about three weeks after being with him.

18 Q. And, in fact, that was the same pod that Mr. Ferguson
19 was in; is that right?

20 A. I believe so, yeah.

21 Q. And you were with Mr. Ferguson for about two weeks; is
22 that right?

23 A. Around that time, yeah.

24 Q. Okay. Now, you stated that he had talked to you about
25 the fact that he had dreamed about the murder; is that right?

1 A. Yeah.

2 Q. Okay. And were you in the Boone County Jail until you
3 pled guilty and were placed on probation?

4 A. Uh-huh.

5 Q. Okay. Now, he also -- were you aware that he, in fact,
6 had pled guilty?

7 A. No, I didn't know. No.

8 Q. You didn't follow it after you had left the jail?

9 A. No. I knew he had said that he did it, you know, but he
10 kept saying -- he spoke to us as a group, you know, in the tank.
11 There wasn't far to go. And he said he was dreaming. We all
12 tried to get to the bottom of why are you selling yourself if you
13 don't know you did it? And he kept saying, "I don't know. I
14 think I did." You know, he was just -- the whole time he never
15 gave a hundred percent answer if himself or Ryan had done it.

16 Q. Okay. Are you aware now that Mr. Erickson pled guilty
17 to the murder?

18 A. Yeah. I'm assuming he did. He's in jail; right?

19 Q. In prison.

20 A. Prison, yeah.

21 Q. Okay.

22 MS. MORRELL: I don't believe I have any other
23 questions.

24 REDIRECT EXAMINATION BY MS. LEFTWICH

25 Q. One thing I want to clear up I wasn't sure I heard. You

1 weren't in jail the whole time until you were sentenced; right?
2 You bonded out; is that correct?

3 A. Like a week before.

4 Q. But you did bond out before --

5 A. Yeah. They dropped my bond, and I was able to get out.

6 Q. And then you pled?

7 A. Then I pled out, yeah.

8 MS. LEFTWICH: Nothing further, Your Honor.

9 THE COURT: Anything further?

10 MS. MORRELL: Nothing further, Your Honor.

11 THE COURT: You may step down.

12 May this witness be finally excused?

13 MS. LEFTWICH: Yes, Your Honor.

14 THE COURT: Ms. Morrell.

15 MS. MORRELL: Yes, Your Honor.

16 THE COURT: You're free to go. Thank you very much.

17 Call your next witness.

18 MS. LEFTWICH: Your Honor, I need to check. I
19 subpoenaed the circuit clerk to come and bring a file and testify
20 in regard to a file.

21 THE COURT: All right. We've been here almost two
22 hours. Why don't we take a 10-minute break or so while you get
23 your next witness.

24 MS. LEFTWICH: Thank you.

25 THE COURT: We'll be in recess.

1 (A recess was taken at 11:01 a.m.)

2 (Court reconvened at 11:15 a.m.)

3 THE COURT: Call your next witness.

4 MS. LEFTWICH: Movant calls the circuit clerk, Your
5 Honor, or someone from the circuit clerk's office.

6 THE COURT: All right. If you would come forward,
7 please, and raise your right hand to be sworn.

8 MISSY MARLETT

9 (having been first duly sworn by the Court, testified as
10 follows:)

11 THE COURT: You may be seated right there, please.

12 MS. LEFTWICH: Ready, Your Honor?

13 THE COURT: Yes, you may proceed.

14 DIRECT EXAMINATION BY MS. LEFTWICH

15 Q. State your full name for the Court, please.

16 A. Missy Marlett.

17 Q. And are you employed?

18 A. Yes.

19 Q. How are you employed?

20 A. I'm the supervisor of the criminal division here in the
21 Boone County Circuit Clerk's office.

22 Q. And did you bring a file with you today from the clerk's
23 office?

24 A. I did.

25 Q. And what file is that?